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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,556	01/15/2004	Michael James Wenzler	W-00019-001	5990

7590 10/19/2004

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22 S. St. Clair St.
Dayton, OH 45402

EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,556

Applicant(s)

WENZLER

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 12 and 14-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 and 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1-15-2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the application filed January 15, 2004 and preliminary amendment filed March 25, 2004 by which claims 10, 11, and 13 were canceled.

Claim Objections

Claims 7, 9, and 15 are objected to because of the following informalities:

In line 3 of claim 7, it appears that "that" should be changed to --than--.

In claim 9, line 2, it appears that "front1" should be changed to --front--.

In claim 15, line 1, it appears that "claim 1,wherein" should be changed to --claim 1, wherein--, i.e., notice the space between the "," and "wherein".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 3, 6, 14, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the garment" in line 9. There is insufficient antecedent basis for this limitation in the claim.

The term "long" in claims 2 and 17 is a relative term which renders the claim indefinite. The term "long" is not defined by the claim, the specification does not provide a standard for

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ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 3 recites the limitation "said retainer member" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 is rendered indefinite since the language of the claim makes the structural relationship between the elements unclear, e.g., "therebetween" which elements? It is noted that the claims do not set forth that the members "contact" one another.

Claim 14 is rendered indefinite since the claim fails to further limit the claimed structure of the device and thus the metes and bounds of the claimed invention cannot be properly ascertained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, 12, and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,021,907 (O'Brien '907).

O'Brien '907 discloses a hanging device (see especially Figures 6 and 7) comprising a base (77 and end members 74 and 76) having a back side *configured for mounting to a vertical support* (38') and the base (77) having a front side; the base is elongated and has a long axis vertically disposed, i.e., it is noted that the claim does not define that the longest axis vertically

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disposed, and hence the vertically disposed axis of the base is considered to be a "long" axis; a first rigid retaining member (52' - see Figure 3) connected (via 32) to the front side of the base and extending outwardly therefrom; a second rigid retaining member (part of 52 not including the cantilevered prong extending substantially vertically in Figure 2) disposed adjacent the first retaining member; first biasing means (48), which is considered to define an *angled-spring metal*, for biasing the second retaining member towards the first retaining member; first means (the cantilevered prong portion of 52 shown in Figures 2 and 3), located on the first retaining member, for simultaneously permitting the biasing means (48) to be compressed while allowing an article to be hung between the members and supportively retained therebetween; the device further comprising third and fourth retaining members having a second biasing means and a second permitting means (another element 46), i.e., similar to the first and second members and first biasing and permitting means, and being horizontally disposed from the first and second members; and *with respect to claim 19*, see Figure 6, whereby the first and second members are on the top row and the third and fourth members are on the bottom row.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien '907 as applied to claims 1, 2, 4-6, 12, and 14-19 above, and further in view of U.S. Patent No. 2,524,537 (Osmonson '537).

O'Brien '907 discloses the device as advanced above.

The claim differ from O'Brien '907 in requiring the first member to have a flared end.

Osmonson '537 teaches a device having a first member with a flared end (see Figure 1).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the first member of O'Brien '907 with a flared end for ease in placement of items therebetween the members.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Brien '907, alone.

O'Brien discloses the device (see Figure 7) whereby the front side (84, 77, and 84) is hingedly connected (at 82) to the back side (80) and includes a latch (114); retaining members (46) are connected to the front side (at 77, through element 32) a lower end of the front side (at 86 on the left side of Figure 7) is disposed outwardly more than an upper end thereof.

The claims differ from O'Brien in requiring an upper end of the front side to be more outwardly disposed from the support than a lower end of the front side (claim 7) whereby the front side is hingedly connected to the back side (claim 8) and includes a latch (claim 9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have connected the device to the support such that the portion of the front side which extends outwardly more from the support would be placed at the upper end, i.e., the device shown in Figure 7 would be attached upside down or flipped 180 degrees therefrom, to

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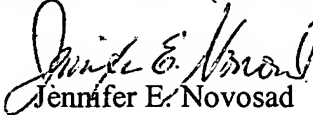
provide for ease in hanging items therefrom since the top layer of items would be near the top and thereby easier to view.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Examiner
Art Unit 3634

Jennifer E. Novosad/jen
October 12, 2004